

STATE OF MICHIGAN
COURT OF APPEALS

DETROIT MEDICAL CENTER and LAKELAND
NEUROCARE CENTER,

UNPUBLISHED
May 15, 2007

Plaintiffs-Appellees/Cross-
Appellants,

v

No. 266444
Wayne Circuit Court
LC No. 04-414772-NF

CITIZENS INSURANCE COMPANY,

Defendant-Appellant/Cross-
Appellee,

and

AUTO CLUB INSURANCE ASSOCIATION,

Defendant-Appellee/Cross-Appellee.

Before: Neff, P.J., and O’Connell and Murray, JJ.

O’CONNELL, J. (*concurring in part and dissenting in part*).

I concur with the majority opinion’s analysis, but I disagree with its final resolution. The trial court correctly determined that the injured party had not “taken” the car “unlawfully” within the meaning intended by MCL 500.3113(a). At that point, defendant ACIA’s duty to pay the injured party’s medical obligations was absolute and arguably overdue. MCL 500.3172(1); MCL 500.3148(1). Although I agree that ACIA was prematurely dismissed, I disagree with any resolution short of immediately granting plaintiffs summary disposition against ACIA on remand.

One of the most appealing aspects of our no-fault system is its capability of providing abrupt financial reimbursement to medical professionals who extend their emergency services on credit to those suddenly and seriously injured in automobile accidents. This is the noble and intended objective of the no-fault act which, to date, has not been accomplished. Nevertheless, the majority opinion remands for further proceedings to sort out which insurer really should reimburse plaintiffs for treating the injured party. Instead, it should first recognize that, beyond all doubt, ACIA must immediately reimburse plaintiffs and then seek reimbursement for itself. *Id.* Moreover, I would urge plaintiffs to move for attorney fees against ACIA because of its

undue delay in assuming the obligation. MCL 500.3148(1). In all other respects, I concur with the majority opinion.

/s/ Peter D. O'Connell